IN THE HIGH COURT OF BOMBAY AT GOA

SECOND APPEAL NO. 160 OF 2005

M/S THE INDIAN HOTELS COMPANY LTD., MUMBAI. ....Appellant

Versus

SHRI ANTONIO FLORIANO FERNANDES AND 6 ORS., ...Respondents

Mr.M.S. Usgaonkar, Sr. Advocate with Mr. I. Agha, Advocate for the Appellant.
Mr. S.G. Dessai, Sr. Advocate with Mr.Shivan Dessai, Advocate for R.1 and 2.

Coram:- SMT. RANJANA DESAI, J.

Date:- 6th July, 2006

P.C.:

Heard learned counsel for the parties.

2. It appears from the Judgment and Order dated 28th July, 2005 passed by the IInd Ad-hoc Additional District Judge, Panaji, Goa in Regular Civil Appeal No. 149/2001 that the learned Judge has not framed points as required by Order 41 Rule 3(a) of the Code of Civil Procedure. Apart from that, though the learned Judge has reproduced the arguments advanced by both sides, it appears that he has not dealt with those arguments. There is no indication in the judgment as to why he has accepted the arguments of the respondents and rejected the arguments of the appellant. Therefore, in my opinion, without expressing any opinion on the merits of the case, the matter needs to be remanded to the lower appellate court to ensure clarity.

Hence the following Order :-

The Judgment and Order dated 28.07.05 passed by the IInd Ad-hoc Additional District Judge, Panaji, Goa in Regular Civil Appeal No. 149/01 is set aside. The matter is remanded to the same Court with a direction that the learned Judge will hear the parties afresh, frame points, deal with the arguments advanced by the parties and pass appropriate orders within a period of six months from the date of receipt of this order by him. I make it clear that I have not expressed any opinion on the merits of the case. Parties to appear before the learned Judge on 25th July, 2006 at 10 O'Clock.

Appeal disposed of in the aforestated terms.

SMT. RANJANA DESAI, J.

sl.